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10/609,112	06/26/2003	Mathew E. Hoekstra	110466-152110	9254

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SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 S.W. FIFTH AVE.
PORTLAND, OR 97204

EXAMINER	
FRITZ, BRADFORD F	
ART UNIT	**PAPER NUMBER**
2442	

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10/05/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/609,112	HOEKSTRA ET AL.	
	Examiner	Art Unit	
	BRADFORD F. FRITZ	2442	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 June 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4-17,20-23 and 26-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4-17,20-23 and 26-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, filed 6/08/09, with respect to the rejection(s) of claim(s) 1, 2, 4-17, 20-23, and 26-30 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Tiku (7,305,626), Weiner (2003/0186722), Hild et al (6,978,373), and Matsumoto (2001/0013088).

2. However, Applicant's other arguments filed 6/08/2009 have been fully considered but they are not persuasive.

3. In the remarks, applicant argued in substance that:

(A) That Tiku teaches a push system and Wiener teaches a pulling system which a person of ordinary skill in the art at the time of the invention would not have combined.

As to point (A), the Examiner respectfully disagrees. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the references. The Examiner notes that nowhere in Weiner does it state that a pulling system is used and nowhere in the Tiku reference does it state that a push system must be used, a narrow reading based on such hypothetical inferences is not required by the references.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1, 2, 4-17, 20, 22-23, 26-28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tiku (7,305,626) in view of Weiner (2003/0186722), further in view of Matsumoto (2001/0013088).

6. Regarding claims 1 and 26, Tiku disclosed first requesting, by the client device, a first content from a content provider (column 3, line 56 – column 4, line 35 and Fig. 2), including providing a characteristic profile to the content provider, the characteristic profile including one or more characteristics of the client device (column 3, line 56 – column 4, line 35 and Fig. 2); receiving, by the client device, a first reply from the content provider responsive to the first requesting (column 3, line 56 – column 4, line 35 and Fig. 2).

However, Tiku does not explicitly teach a query for a dynamic characteristic of the client device; second requesting, by the client device, the first content from the content provider, the second requesting incorporating a query result for the query, the query result including the dynamic characteristic; and second receiving, by the client device, a second reply from the content provider responsive to the second requesting, the second reply including the first content or portion thereof, wherein the first content or portion thereof is determined by the content provider based at least in part on the dynamic characteristic. Weiner teaches a query for a dynamic characteristic of the

client device (paragraphs 0035, 0040-0042, and Fig. 3); second requesting, by the client device, the first content from the content provider, the second requesting incorporating a query result for the query, the query result including the dynamic characteristic (paragraphs 0035, 0040-0042, and Fig. 3); and second receiving, by the client device, a second reply from the content provider responsive to the second requesting (paragraphs 0035, 0040-0042, and Fig. 3), the second reply including the first content or portion thereof (paragraphs 0035, 0040-0042, and Fig. 3), wherein the first content or portion thereof is determined by the content provider based at least in part on the dynamic characteristic (paragraphs 0035, 0040-0042, and Fig. 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the features as taught by Weiner in the method and system of Tiku because both are from the same field of endeavor of delivering networked content based on the mobile profiles and in order to format or modify a communication to be sent based upon received capabilities of a mobile device (paragraph 0019).

However, Weiner does not explicitly teach the dynamic characteristic being a real-time attribute which changes while the client device is operating. Matsumoto teaches the dynamic characteristic being a real-time attribute which changes while the client device is operating (paragraphs 0048 and 0088). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the features as taught by Matsumoto in the combination above because all are from the same field of endeavor and in order to enable “”dynamic switching between the attribute information enables the optimal information to be acquired even if the client apparatus is changed

depending on the purpose of the user of the client apparatus… impl[ying] the effective usage of the information source server" (paragraph 0088).

7. Regarding claim 2, Weiner disclosed a third requesting, by the client device, a second content from the content provider, wherein the third requesting automatically incorporates the query result for the query (paragraphs 0035, 0040-0042, and Fig. 3).

8. Regarding claim 4, Weiner disclosed determining if the content provider is caching the query result (paragraphs 0035, 0040-0042, and Fig. 3), and if so, determining, by the client device, if the query result has changed since the first requesting (paragraphs 0035, 0040-0042, and Fig. 3); and wherein if the query result has not changed, said third request does not incorporate the query result for the query (paragraphs 0035, 0040-0042, and Fig. 3).

9. Regarding claim 5, Weiner disclosed wherein if the query result has changed, said third request automatically incorporates the query result for the query (paragraphs 0035, 0040-0042, and Fig. 3).

10. Regarding claim 6, Weiner disclosed determining, by the client device, if the content provider is caching the query result (paragraphs 0035, 0040-0042, and Fig. 3), and if so, determining if the query result has changed since the first requesting (paragraphs 0035, 0040-0042, and Fig. 3); and wherein if the query result has not changed, said third request does not incorporate the query result for the query (paragraphs 0035, 0040-0042, and Fig. 3), and wherein if the query result has changed, said third request automatically incorporates the query result for the query (paragraphs 0035, 0040-0042, and Fig. 3).

11. Regarding claim 7, Tiku disclosed storing, by the client device, the query result in a HyperText Transport Protocol (HTTP) request header provided to the content provider (column 4, lines 39-50).

12. Regarding claim 8, Tiku disclosed wherein the query is received in a HyperText Transport Protocol (HTTP) response header provided by the content provider (column 4, lines 39-50).

13. Regarding claim 9, Tiku disclosed wherein requesting the content and receiving the first reply is performed according to the Composite Capability/Preference Profiles (CC/PP) protocol (column 2, lines 20-30).

14. Regarding claim 10, Weiner disclosed wherein the characteristic profile includes an entry indicating whether the client can be queried for a dynamic characteristic (paragraphs 0040-0042, and Fig. 3).

15. Regarding claim 11, Tiku disclosed wherein the characteristic profile is formatted as a UAProf profile (column 3, lines 10-30).

16. Regarding claim 12, Weiner disclosed wherein the first reply comprises a selected one of the content or a frame-set for the content (paragraphs 0035, 0040-0042, and Fig. 3).

17. Regarding claims 13 and 20, Weiner disclosed wherein the dynamic characteristic is a selected one of processor type, processor speed, processor mode, available memory, available storage, or available network connectivity (paragraphs 0040-0042, and Fig. 3).

18. Regarding claim 14, Weiner disclosed wherein the dynamic characteristic is a selected one of availability of: peer clients, a camera, a microphone, a text to speech converter, a speech to text converter, a soft radio, a graphics processor (paragraphs 0035, 0040-0042, and Fig. 3).

19. Regarding claim 15, Weiner disclosed wherein the dynamic characteristic is availability of an encryption processor (paragraphs 0035, 0040-0042, and Fig. 3).

20. Regarding claims 16 and 28, Weiner disclosed receiving, by a content provider, from a client a first request for first content and a characteristic profile (column 3, line 56 – column 4, line 35 and Fig. 2), the characteristic profile including one or more characteristics of the client (column 3, line 56 – column 4, line 35 and Fig. 2).

However, Tiku does not explicitly teach providing, by the content provider, a first response to the request of the client lacking all of the requested first content, but wherein the first response incorporates a query for a dynamic characteristic of the client; receiving, by the content provider, a second request for the first content, wherein the second request incorporates a query result for the query, the query result including the dynamic characteristic; and providing, by the content provider, the first content to the client in accord with the dynamic characteristic. Weiner teaches providing, by the content provider (paragraphs 0035, 0040-0042, and Fig. 3), a first response to the request of the client lacking all of the requested first content, but wherein the first response incorporates a query for a dynamic characteristic of the client (paragraphs 0035, 0040-0042, and Fig. 3); receiving, by the content provider, a second request for the first content, wherein the second request incorporates a query result for the query

(paragraphs 0035, 0040-0042, and Fig. 3), the query result including the dynamic characteristic (paragraphs 0035, 0040-0042, and Fig. 3); and providing, by the content provider, the first content to the client in accord with the dynamic characteristic (paragraphs 0035, 0040-0042, and Fig. 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the features as taught by Weiner in the method and system of Tiku because both are from the same field of endeavor of delivering networked content based on the mobile profiles and in order to format or modify a communication to be sent based upon received capabilities of a mobile device (paragraph 0019).

However, Weiner does not explicitly teach the dynamic characteristic being a real-time attribute which changes while the client device is operating. Matsumoto teaches the dynamic characteristic being a real-time attribute which changes while the client device is operating (paragraphs 0048 and 0088). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the features as taught by Matsumoto in the combination above because all are from the same field of endeavor and in order to enable “”dynamic switching between the attribute information enables the optimal information to be acquired even if the client apparatus is changed depending on the purpose of the user of the client apparatus… impl[ying] the effective usage of the information source server” (paragraph 0088).

21. Regarding claim 17, Weiner disclosed wherein the characteristic profile indicates the client may be queried for characteristics not identified in the characteristic profile (paragraphs 0035, 0040-0042, and Fig. 3).

22. Regarding claim 22, Tiku disclosed a content provider communicatively coupled with a client (column 3, line 56 – column 4, line 35 and Fig. 2); wherein the content provider is operative to perform receiving from the client a first request for first content and a characteristic profile including characteristics of the first client (column 3, line 56 – column 4, line 35 and Fig. 2), determining whether the client may be queried for dynamic characteristics (column 3, line 56 – column 4, line 35 and Fig. 2), providing a response to the first request of the client (column 3, line 56 – column 4, line 35 and Fig. 2).

However, Tiku does not explicitly teach the response lacking all of the requested first content, but wherein the response incorporates a query for a dynamic characteristic of the client, receiving a second request for the first content incorporating a query result for the query, the query result including the dynamic characteristic, and providing the first content to the client in accord with the query result; and wherein the client is operative to perform parsing the response to determine the query, determining the query result, and providing the query result to the content provider in at least a second request for content. Weiner teaches the response lacking all of the requested first content (paragraphs 0035, 0040-0042, and Fig. 3), but wherein the response incorporates a query for a dynamic characteristic of the client (paragraphs 0035, 0040-0042, and Fig. 3), receiving a second request for the first content incorporating a query result for the query (paragraphs 0035, 0040-0042, and Fig. 3), the query result including the dynamic characteristic (paragraphs 0035, 0040-0042, and Fig. 3), and providing the first content to the client in accord with the query result (paragraphs 0035, 0040-0042,

and Fig. 3); and wherein the client is operative to perform parsing the response to determine the query (paragraphs 0035, 0040-0042, and Fig. 3), determining the query result, and providing the query result to the content provider in at least a second request for content (paragraphs 0035, 0040-0042, and Fig. 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the features as taught by Weiner in the method and system of Tiku because both are from the same field of endeavor of delivering networked content based on the mobile profiles and in order to format or modify a communication to be sent based upon received capabilities of a mobile device (paragraph 0019).

However, Weiner does not explicitly teach the dynamic characteristic being a real-time attribute which changes while the client device is operating. Matsumoto teaches the dynamic characteristic being a real-time attribute which changes while the client device is operating (paragraphs 0048 and 0088). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the features as taught by Matsumoto in the combination above because all are from the same field of endeavor and in order to enable “”dynamic switching between the attribute information enables the optimal information to be acquired even if the client apparatus is changed depending on the purpose of the user of the client apparatus… impl[ying] the effective usage of the information source server” (paragraph 0088).

23. Regarding claim 23, Tiku disclosed wherein the client and content provider utilize HTTP to exchange data in accord with the CC/PP protocol (column 2, lines 20-30).

24. Regarding claim 27, Weiner disclosed determine that the content is arranged in a hierarchical structure (paragraphs 0035, 0040-0042, and Fig. 3); and determining if the content provider wants the query result to be automatically incorporate into a third requesting of second content from the content provider based on results of said determining (paragraphs 0035, 0040-0042, and Fig. 3).

25. Regarding claim 28, Tiku disclosed a machine-accessible media (column 3, line 56 – column 4, line 35 and Fig. 2); and a plurality of programming instructions stored on the media and configured to program a content provider to receive from a client a first request for first content and a characteristic profile (column 3, line 56 – column 4, line 35 and Fig. 2), the characteristic profile including characteristics of the client (column 3, line 56 – column 4, line 35 and Fig. 2); determine the client may be queried for dynamic characteristics not identified in the characteristic profile (column 3, line 56 – column 4, line 35 and Fig. 2), provide a first response to the first request of the client (column 3, line 56 – column 4, line 35 and Fig. 2),

However, Tiku does not explicitly teach the first response lacking all of the requested first content, but wherein the first response incorporates a query for a dynamic characteristic of the client, receive a second request for the first content, wherein the second request incorporates a query result for the query, the query result including the dynamic characteristic, and provide the first content to the client in accord with the dynamic characteristic. Weiner teaches the first response lacking all of the requested first content (paragraphs 0035, 0040-0042, and Fig. 3), but wherein the first response incorporates a query for a dynamic characteristic of the client (paragraphs

0035, 0040-0042, and Fig. 3), receive a second request for the first content (paragraphs 0035, 0040-0042, and Fig. 3), wherein the second request incorporates a query result for the query (paragraphs 0035, 0040-0042, and Fig. 3), the query result including the dynamic characteristic (paragraphs 0035, 0040-0042, and Fig. 3), and provide the first content to the client in accord with the dynamic characteristic (paragraphs 0035, 0040-0042, and Fig. 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the features as taught by Weiner in the method and system of Tiku because both are from the same field of endeavor of delivering networked content based on the mobile profiles and in order to format or modify a communication to be sent based upon received capabilities of a mobile device (paragraph 0019).

However, Weiner does not explicitly teach the dynamic characteristic being a real-time attribute which changes while the client device is operating. Matsumoto teaches the dynamic characteristic being a real-time attribute which changes while the client device is operating (paragraphs 0048 and 0088). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the features as taught by Matsumoto in the combination above because all are from the same field of endeavor and in order to enable “”dynamic switching between the attribute information enables the optimal information to be acquired even if the client apparatus is changed depending on the purpose of the user of the client apparatus… impl[ying] the effective usage of the information source server” (paragraph 0088).

26. Regarding claim 30, Weiner disclosed wherein the first content is arranged in a hierarchical structure, and the method further comprises determining (paragraphs 0035, 0040-0042, and Fig. 3), by the client device, if the content provider wants the query result to be automatically incorporated into a third requesting of second content from the content provider that is lower in the hierarchical structure that the first content (paragraphs 0035, 0040-0042, and Fig. 3).

27. Claims 21 and 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tiku in view of Weiner (2003/0186722), in view of Matsumoto (2001/0013088), further in view of Hild et al (6,978,373), hereinafter referred to as Hild.

28. Regarding claims 21 and 29, Weiner and Tiku disclosed the invention as described above. However neither explicitly teaches issuing a set-cookie command to the client to associate at least the first content with a cookie, wherein the cookie indicates the query result will be cached for all content associated with the cookie. Hild teaches a system that can use a set-cookie command to the client to associate at least the first content with a cookie, wherein the cookie indicates the query result will be cached for all content associated with the cookie (column 6, lines 52-65). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the cookie feature as taught by Hild in the method and system detailed above because all are from the same field of endeavor of delivering networked content based on the mobile profiles and because the format of a cookie is another suitable format for storing a client's profile information (column 6, lines 58-61).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRADFORD F. FRITZ whose telephone number is (571)272-3860. The examiner can normally be reached on 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on 571-272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew Caldwell/
Supervisory Patent Examiner, Art Unit 2442

/B. F. F./
Examiner, Art Unit 2442